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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,567	08/31/2001	Ryusuke Kawate	213026US2	7591
22850	7590	08/09/2006	EXAMINER	
C. IRVIN MCCLELLAND OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				PHAN, HANH
				ART UNIT 2613 PAPER NUMBER

DATE MAILED: 08/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/942,567	KAWATE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Hanh Phan	2613	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 26 July 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 19,20,22-24 and 26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 19,20,22-24 and 26 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | Paper No(s)/Mail Date. _____ .  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>03/22/2006</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|   | 6) <input type="checkbox"/> Other: _____ .                                  |

## DETAILED ACTION

1. This Office Action is responsive to the RCE filed on 07/26/2006.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 19 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Kumozaki et al (US Patent No. 5,539,564).

Regarding claims 19 and 23, referring to Figures 1-3, 23 and 24, Kumozaki discloses an optical distribution network system comprising:

an optical line termination (i.e., central office equipment 101, Fig. 1);

a first optical network unit (i.e., subscriber's equipments 300, Fig. 1) connected to the optical line termination (i.e., central office equipment 100, Fig. 1) through a working optical network and a standby optical network (i.e., col. 8, lines 55-67 and col. 9, lines 1-61); and

a second optical network unit (i.e., subscriber's equipments 400, Fig. 1) connected to the optical line termination (i.e., central office equipment 100, Fig. 1) through a working optical network and a standby optical network (i.e., col. 8, lines 55-67 and col. 9, lines 1-61);

wherein the optical line termination (i.e., central office equipment 100, Fig. 1) is configured to send a first passive optical network section trace (TST) message, wherein the first optical network unit (i.e., subscriber's equipments 300, Fig. 1) is configured to receive the first PST message and is configured to switch transmission of data traffic to the optical line termination along either one of the working optical network and the standby optical network based on the PST message (col. 10, lines 54-61),

wherein the optical line termination (i.e., central office equipment 100, Fig. 1) is configured to send a second passive optical network section trace (TST) message, and wherein the second optical network unit (i.e., subscriber's equipments 400, Fig. 1) is configured to receive the second PST message and is configured to switch transmission of data traffic to the optical line termination along either one of the working optical network and the standby optical network based on the second PST message (col. 10, lines 64-67).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 20, 22, 24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kumozaki et al (US Patent No. 5,539,564) in view of Klink (US Patent No. 5,706,277).

Regarding claims 20 and 24, Kumozaki differs from claims 20 and 24 in that he does not specifically teach the switching transmission of data traffic is performed based on a first selection signal included in the first PST message. However, Klink in US Patent No. 5,706,277 teaches the switching transmission of data traffic is performed based on a first selection signal included in the first PST message (col. 5, lines 8-43). Therefore, it would have been obvious to one having skill in the art at the time the invention was made to incorporate the switching transmission of data traffic is performed based on a first selection signal included in the first PST message as taught by Klink in the system of Kumozaki. One of ordinary skill in the art would have been motivated to do this since allowing providing for changing over to a standby link for a transmission device as quickly as possible.

Regarding claims 22 and 26, the combination of Kumozaki and Klink teaches the switching transmission of data traffic is performed based on a second selection signal included in the second PST message (col. 5 of Klink, lines 8-43).

#### ***Response to Arguments***

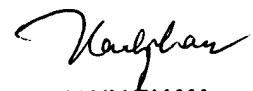
6. Applicant's arguments with respect to claims 19, 20, 22-24 and 26 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Phan whose telephone number is (571)272-3035.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan, can be reached on (571)272-3022. The fax phone number for the organization where this application or proceeding is assigned is (571)273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-4700.



HANH PHAN  
PRIMARY EXAMINER